

Austin, Texas,
June 8, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 11 carefully examined, compared and read, and find same correctly enrolled.

STONE of Galveston, Chairman.

Austin, Texas,
June 14, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. C. R. No. 57 carefully examined, compared and read, and find same correctly enrolled.

STONE of Galveston, Chairman.

Austin, Texas,
June 14, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. C. R. No. 62 carefully examined, compared and read, and find same correctly enrolled.

STONE of Galveston, Chairman.

Austin, Texas,
June 14, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 140 carefully examined, compared and read, and find same correctly enrolled.

STONE of Galveston, Chairman.

Austin, Texas,
June 14, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 462 carefully examined, compared and read, and find same correctly enrolled.

STONE of Galveston, Chairman.

Austin, Texas,
June 14, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on En-

rolled Bills, have had S. B. No. 356 carefully examined, compared and read, and find same correctly enrolled.

STONE of Galveston, Chairman.

Austin, Texas,
June 14, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 298 carefully examined, compared and read, and find same correctly enrolled.

STONE of Galveston, Chairman.

Austin, Texas,
June 12, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 492 carefully examined, compared and read, and find same correctly engrossed.

LANNING, Chairman.

Austin, Texas,
June 13, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. C. R. No. 57 carefully examined, compared and read, and find same correctly engrossed.

LANNING, Chairman.

EIGHTY-SEVENTH DAY

(Thursday, June 15, 1939)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Stevenson.

The roll was called, and the following Senators were present:

Aikin	Kelley
Beck	Lanning
Brownlee	Lemens
Burns	Martin
Collie	Metcalf
Cotten	Moffett
Graves	Moore
Hardin	Nelson
Head	Pace
Hill	Redditt
Isbell	Roberts

Shivers	Stone
Small	of Washington
Spears	Sulak
Stone	Van Zandt
of Galveston	Weinert
	Winfield

A quorum was announced present.

The invocation was offered by the Chaplain.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

House Bill 231 on Third Reading

Senator Stone of Galveston moved that Senate rule 11b be suspended to permit his making a motion at this time to suspend the regular order of business to take up H. B. No. 231 and have it placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—21

Aikin	Martin
Beck	Metcalf
Brownlee	Moffett
Collie	Nelson
Graves	Roberts
Hardin	Shivers
Hill	Spears
Isbell	Stone
Kelley	of Galveston
Lanning	Sulak
Lemens	Winfield

Nays—7

Burns	Small
Cotten	Stone
Moore	of Washington
Pace	Weinert

Absent

Head	Van Zandt
Redditt	

Senator Stone of Galveston moved that the regular order of business be suspended and that H. B. No. 231 be laid before the Senate on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—21

Aikin	Brownlee
Beck	Collie

Graves	Moffett
Hardin	Nelson
Hill	Roberts
Isbell	Shivers
Kelley	Spears
Lanning	Stone
Lemens	of Galveston
Martin	Sulak
Metcalf	Winfield

Nays—7

Burns	Small
Cotten	Stone
Moore	of Washington
Pace	Weinert

Absent

Head	Van Zandt
Redditt	

The President then laid before the Senate on its third reading and final passage:

H. B. No. 231, A bill to be entitled "An Act to protect trade-mark owners, distributors and the general public against injurious and uneconomic practices in the distribution of articles of standard quality under a distinguished trade-mark, brand, or name, and to facilitate fair trade; defining certain terms; providing a saving clause, and declaring an emergency."

The bill was read third time.

Senator Spears moved the previous question on the final passage of the bill, and the motion was duly seconded.

The main question was ordered by the following vote:

Yeas—18

Brownlee	Martin
Collie	Metcalf
Graves	Moffett
Hardin	Nelson
Head	Shivers
Hill	Spears
Isbell	Stone
Kelley	of Galveston
Lanning	Winfield
Lemens	

Nays—11

Aikin	Roberts
Beck	Small
Burns	Stone
Cotten	of Washington
Moore	Sulak
Pace	Weinert

Absent

Redditt	Van Zandt
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On motion of Senator Spears and by unanimous consent, it was ordered that the caption be amended to conform to the body of the bill.

Question then recurring on the passage of the bill, yeas and nays were demanded.

The bill was passed by the following vote:

Yeas—20

Aikin	Metcalf
Brownlee	Moffett
Collie	Nelson
Graves	Roberts
Hardin	Shivers
Hill	Spears
Isbell	Stone
Kelley	of Galveston
Lanning	Sulak
Lemens	Winfield
Martin	

Nays—11

Beck	Redditt
Burns	Small
Cotten	Stone
Head	of Washington
Moore	Van Zandt
Pace	Weinert

Senator Metcalfe moved to reconsider the vote by which the bill was passed.

Senator Spears moved to table the motion to reconsider.

The motion to table prevailed.

Record of Votes

Senators Cotten, Moore, Burns, and Van Zandt asked to be recorded as voting "nay" on the motion to table.

Message from the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,
Austin, Texas, June 15, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill and resolution:

S. B. No. 347, A bill to be entitled "An Act authorizing the State Parks Board to acquire, build and construct parkways, roads, bridges and trails

to park-sites on Buchanan and Inks Lakes in Burnet and Llano Counties; authorizing the Board to cooperate and match funds with other State and Federal agencies; making an appropriation to carry out the terms of this Act; and declaring an emergency."

H. C. R. No. 196, Suspending the Joint Rules of the House and Senate so that the House can take up and consider the deficiency Rural Aid Bill for the 1938-1939 school year.

The House has concurred in Senate amendments to H. B. No. 912 by a vote of 88 yeas, 46 noes.

Respectfully submitted,

E. R. LINDLEY,
Chief Clerk, House of Representatives.

House Concurrent Resolution 196

On motion of Senator Aikin and by unanimous consent, the regular order of business was suspended to permit consideration of H. C. R. No. 196 at this time.

The President laid before the Senate for consideration at this time:

H. C. R. No. 196, Suspending the Joint Rules so that the House can take up and consider today and tomorrow, June 14th and 15th, House Bill No. 1031, the deficiency Rural Aid Appropriation Bill.

The resolution was read and adopted unanimously.

Motion to Take Up House Bill 1009

Senator Moffett moved to suspend Senate rule 11b, to permit his moving at this time to suspend the regular order of business to take up H. B. No. 1009 and have it placed on its second reading and passage to third reading.

The motion was lost by the following vote (not receiving the necessary two-thirds vote):

Yeas—18

Aikin	Redditt
Collie	Roberts
Hardin	Shivers
Isbell	Small
Kelley	Stone
Lanning	of Galveston
Martin	Stone
Metcalf	of Washington
Moffett	Van Zandt
Pace	Winfield

Nays—11

Beck	Moore
Burns	Nelson
Cotten	Spears
Graves	Sulak
Head	Weinert
Lemens	

Absent

Brownlee	Hill
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House Bill 17 on Final Passage

Senator Small moved to suspend Senate rule 11b to permit his moving to suspend the regular order of business to take up H. B. No. 17 and have it placed on its final passage.

The motion prevailed by the following vote:

Yeas—20

Aikin	Redditt
Collie	Roberts
Graves	Shivers
Isbell	Small
Kelley	Spears
Lanning	Stone
Lemens	of Galveston
Metcalf	Stone
Moffett	of Washington
Moore	Weinert
Pace	Winfield

Nays—8

Beck	Head
Burns	Nelson
Cotten	Sulak
Hardin	Van Zandt

Absent

Brownlee	Martin
Hill	

Senator Small moved that the regular order of business be suspended and that H. B. No. 17 be laid before the Senate on its final passage.

The motion prevailed by the following vote:

Yeas—22

Aikin	Redditt
Collie	Roberts
Graves	Shivers
Isbell	Small
Kelley	Spears
Lanning	Stone
Lemens	of Galveston
Martin	Stone
Metcalf	of Washington
Moffett	Van Zandt
Moore	Weinert
Pace	Winfield

Nays—7

Beck	Head
Burns	Nelson
Cotten	Sulak
Hardin	

Absent

Brownlee	Hill
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The President laid before the Senate on its final passage (the bill having been read third time on April 27, 1939):

H. B. No. 17, A bill to be entitled "An Act providing a title for the Act; providing the definition of certain words, terms and phrases; providing certain exemptions; providing any one act prohibited herein shall be a violation hereof; providing for the administration of the Act; providing certain procedure for securing real estate dealers' and real estate salesmen's licenses and for certain information to be supplied by applicant and requiring the recommendation of the applicant by three real estate owners; providing a partnership, association or corporation licensed under the Act can designate one of its members or officers to be licensed as a real estate dealer without additional charge and imposing certain restrictions; providing any member of partnership or officer of association or corporation not designated required to be licensed before acting as a real estate dealer and imposing restrictions, etc., and declaring an emergency."

With the following amendment by Senator Cotten and motion by Senator Small to table the amendment pending.

Amend H. B. No. 17 by adding a new section as follows:

"All hearings provided for herein shall be held in the county of the permittee's residence."

Question—Shall the motion to table prevail?

Senator Small withdrew the motion to table.

Question—Shall the amendment be adopted?

Pending an address by Senator Cotten on the amendment, Senator Small announced the amendment was ac-

ceptable to the sponsors of the bill and raised the point of order that Senator Cotten, by continuing his address, is pursuing dilatory tactics.

The President overruled the point of order.

Question r e c u r r e d — Shall the amendment be adopted?

Conference Committee on Senate Bill 179

By unanimous consent, Senator Shivers called S. B. No. 179 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Question—Shall the Senate concur in the House amendments?

Senator Shivers moved that the Senate do not concur in the House amendments and that a conference committee be requested to adjust the differences between the two Houses on the bill.

The motion prevailed.

Accordingly, the President appointed the following conferees on the bill on the part of the Senate: Senators Metcalfe, Shivers, Small, Brownlee and Hill.

Hour for Executive Session Set

On motion of Senator Shivers, and by unanimous consent, the Senate agreed to hold an executive session at 11:55 o'clock a. m. today.

Conference Committee on House Bill 257 Adopted

By unanimous consent, Senator Roberts at this time called for the consideration of the report of the Conference Committee on H. B. No. 257, the Judiciary Appropriation Bill, which report heretofore was submitted, and which is printed in full in the House Journal of June 8, 1939.

The President laid the report before the Senate.

Question — Shall the r e p o r t be adopted?

The report was adopted.

Record of Votes

Senators Beck and Hill asked to be recorded as voting "nay" on the adoption of the report.

House Bill 1112 on Second Reading

On motion of Senator Beck and by unanimous consent, the regular order of business was suspended to permit consideration of H. B. No. 1112 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 1112, A bill to be entitled "An Act to provide that out of taxes remitted by the State of Texas to certain counties such sum shall be used for the purpose of acquiring and improving land for State Parks, and declaring an emergency."

The bill was read second time.

Senator Beck offered the following amendment to the bill:

Amend H. B. No. 1112, Section 1, to read as follows:

"From and after the passage of this Act out of taxes remitted by the State of Texas by virtue of Senate Bill No. 224 of the Regular Session of the Forty-sixth Legislature to counties having a population of not less than forty-eight thousand five hundred thirty (48,530) and not more than forty-eight thousand eight hundred (48,800), the Commissioners' Courts of said counties may expend the sum of not more than eight thousand dollars (\$8,000.00) for the purpose of purchasing and improving land to be designated as a State Park."

Amend the caption to conform.

The amendment was adopted.

The bill was passed to third reading.

House Bill 1112 on Third Reading

Senator Beck moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1112 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalf	Winfield
Moffett	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Senate Bills on First Reading

By unanimous consent, the following local bills were introduced, read severally first time, and referred to the committee indicated:

By Senator Sulak:

S. B. No. 494, A bill to be entitled "An Act amending Article 879h, Revised Civil Statutes of Texas, 1925, Acts 1927, Fortieth Legislature, page 316, chapter 215, paragraph 1, as amended by Acts 1929, Forty-first Legislature, page 108, chapter 52, paragraph 1, so as to place Austin County under the general law with respect to season on wild squirrels; repealing all laws and parts of laws in conflict herewith and declaring an emergency."

Referred to Committee on Game and Fish.

By Senator Sulak:

S. B. No. 495, A bill to be entitled "An Act amending Article 923LL-6, Revised Civil Statutes of Texas, 1925, Acts 1931, Forty-second Legislature, Special Laws, page 453, chapter 233, paragraph 1, so as to place Austin County under the general laws with respect to bag limit for wild squirrels; repealing all laws and parts of laws in conflict herewith and declaring an emergency."

Referred to Committee on Game and Fish.

Executive Session

At 11:55 o'clock a. m., the President announced the hour set for an executive session had arrived and he ordered the floor and galleries cleared of all those not entitled to attend the executive session and directed that all doors leading from the Senate Chamber be closed.

After Executive Session

At the conclusion of the executive session, the Secretary of the Senate reported to the Journal Clerk that the Senate had adopted the following reports:

Austin, Texas,
June 14, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nominations:

To be Director-at-Large and Chairman of the Board of Directors of the Lower Concho River Water and Soil Conservation Authority (Three-year term beginning May 10, 1939):

G. Y. Lee of Eden, Concho, County.

To be Members of the Board of Directors of the Lower Concho River Water and Soil Conservation Authority (Three-year term beginning May 10, 1939):

J. A. Waide of Paint Rock, Concho County.

S. F. Farmer of Eola, Concho County.

Two-year term beginning May 10, 1939):

A. E. Gromatzky of Eden, Concho County.

W. B. Hardin of Salt Gap, Concho County.

Albert Schulz of Eola, Concho County.

(One-year term beginning May 10, 1939):

R. H. Dalton of Paint Rock, Concho County.

A. P. Freeman of Pasche, Concho County.

C. L. Stevens of Millersview, Concho County.

Have had same under consideration and do recommend that they be in all things confirmed.

SHIVERS, Chairman.

Austin, Texas,
June 14, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nomination:

To be Chairman of the Livestock Sanitary Commission (Six-year term beginning May 4th, 1939):

Roy Loventhal of Lufkin, Angelina County.

Have had same under consideration and do recommend that he be in all things confirmed.

SHIVERS, Chairman.

Austin, Texas,
June 14, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nomination:

To be a Member of the State Board of Embalming (Six-year term ending May 31, 1945):

Ray F. Crowder of Fort Worth, Tarrant County.

Have had same under consideration and do recommend that he be in all things confirmed.

SHIVERS, Chairman.

The President called the Senate to order as in legislative session at 12:00 o'clock m.

Bills and Resolution Signed

The President signed, in the presence of the Senate, after their captions had been read, the following enrolled bills and resolution:

H. B. No. 195, "An Act defining and regulating the practice of chiropody in the State of Texas; providing for the creation of the State Board of Chiropody Examiners and prescribing their powers and duties; providing for the examination and licensing of chiropodists and the recording of licenses issued to chiropodists and for the annual registration of licensed chiropodists; providing grounds upon which such licenses may be suspended

or revoked and the procedure to be followed in suspending or revoking same; providing civil and criminal remedies and penalties for violation of the laws regulating the practice of chiropody and to prevent the unlawful practice of chiropody, defining certain unlawful acts and practices taking, etc., and otherwise regulating and protecting public health as dealt with by the profession of chiropody as in the Act set out; providing for reciprocity as limited in the Act and declaring certain legislative intent with respect to this Act, and declaring an emergency."

H. B. No. 1040, "An Act making an appropriation of Three Thousand (\$3,000.00) Dollars, or so much thereof as may be necessary to aid and facilitate the work to be performed by the Lower Concho River Water and Soil Conservation Authority; provided that said appropriation shall be a loan to be repaid to the State of Texas out of the first revenues received by said Authority, and declaring an emergency."

S. B. No. 347, "An Act authorizing the State Parks Board to acquire, build and construct parkways, roads, bridges and trails to park-sites on Buchanan and Inks Lakes in Burnet and Llano Counties; authorizing the Board to cooperate and match funds with other State and Federal Agencies; making an appropriation to carry out the terms of this Act; and declaring an emergency."

S. B. No. 298, "An Act setting out the authority of the Texas State Parks Board in all matters pertaining to land titles and interests, authorizing the acceptance, rejection, or reconveyance of park sites, and declaring an emergency."

S. B. No. 356, "An Act amending Article 2671 of the Revised Civil Statutes of Texas as amended by Chapter 278, Acts of the Regular Session of the Forty-first Legislature, relating to purchase of bonds by Board of Education, and declaring an emergency."

S. B. No. 462, "An Act amending Section 1, of Chapter 80, page 122, Acts of the Forty-second Legislature, Regular Session, so as to more adequately define the powers of the

Governor of Texas in appointing the members of the State Commission for the Blind, and declaring an emergency."

H. B. No. 1025, "An Act permitting the use of a one-inch net for taking suckers, carp, buffalo and shad from Bosque River, in Hamilton County; prohibiting the use of any other seine or net except a minnow seine; providing a penalty; repealing all conflicting laws, and declaring an emergency."

H. B. No. 865, "An Act amending Article 3985 of the Revised Civil Statutes of the State of Texas of 1925, so that default judgment may be taken in Justice Court in forcible entry and detainer proceedings, and declaring an emergency."

H. B. No. 982, "An Act prescribing the means by which fish may be taken from the waters of Coryell County; prohibiting the sale of catfish taken in that county; repealing all conflicting laws; prescribing a penalty, and declaring an emergency."

H. B. No. 1130, "An Act releasing all penalty and interest accrued on ad valorem city and independent school district taxes which were delinquent on July 1, 1938, in all cities in this State having a population of not less than one hundred thousand (100,000) or more than one hundred and twenty thousand (120,000) by the last preceding Federal Census, and in which the city council shall be proper resolution so determine, etc.; and declaring an emergency."

H. B. No. 864, "An Act amending Article 3991 of the Revised Civil Statutes of the State of Texas of 1925, so that default judgment may be taken in Justice Court or County Court in forcible entry and detainer proceedings, and declaring an emergency."

H. C. R. No. 180, Authorizing the State Highway Department of Texas to give to the School Board of Prairie Point Common School District No. 10 of Montague County a quantity of discarded guard wire.

House Concurrent Resolution 195

By unanimous consent, the following resolution received from the House

on yesterday, was laid before the Senate:

H. C. R. No. 195, To correct caption of H. B. No. 1078.

The resolution was read; and by unanimous consent, it was considered immediately and was adopted.

Conference Committee Report on Senate Bill 33

By unanimous consent, Senator Redditt called for the consideration at this time of the report of the Conference Committee on S. B. No. 33, which report heretofore was submitted and printed in the Journal.

The President laid the report before the Senate, and it was adopted.

Record of Votes

Senators Aikin, Collie and Moore asked to be recorded as voting "nay" on the adoption of the report.

Senate Resolution 98

Senator Lemens, by unanimous consent, offered at this time the following resolution:

Be it Resolved by the Senate of Texas, That suitable flowers be sent to the funeral of former Senator Will M. Martin, and that they be paid for out of the contingent funds of the Forty-sixth Legislature.

LEMENS,
PACE,
COLLIE.

The resolution was read; and on motion of Senator Lemens, and by unanimous consent, it was considered immediately.

The resolution was adopted.

Reports of Standing Committees

Senator Moore, by unanimous consent, submitted at this time the following reports of the Committee on Game and Fish:

Austin, Texas,
June 15, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred

S. B. No. 495, A bill to be entitled "An Act amending Article 923LL-6, Revised Civil Statutes of Texas, 1925, Acts 1931, Forty-second Legislature, Special Laws, page 453, chapter 233, paragraph 1, so as to place Austin County under the general law with respect to bag limit for wild squirrels; repealing all laws and parts of laws in conflict herewith and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

MOORE, Chairman.

Austin, Texas,
June 15, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred

S. B. No. 494, A bill to be entitled "An Act amending Article 879h, Revised Civil Statutes of Texas, 1925, Acts 1927, Fortieth Legislature, page 316, chapter 215, paragraph 1, as amended by Acts 1929, Forty-first Legislature, page 108, chapter 52, paragraph 1, so as to place Austin County under the general law with respect to season on wild squirrels; repealing all laws and parts of laws in conflict herewith and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

MOORE, Chairman.

Senator Roberts, by unanimous consent, submitted at this time the following report of the Committee on Finance:

Austin, Texas,
June 15, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

H. B. No. 1019, A bill to be entitled "An Act amending Section 4 of Chapter 478 of the Regular Session of the Forty-fifth Legislature, 1937, same being House Bill No. 144; providing

for an appropriation from the Architects Registration Fund to pay salaries, compensation, and other expenses of the Board of Architectural Examiners; providing certain excess funds to be diverted to the General Revenue Fund of the State; providing salary of the Secretary-Treasurer and certain compensations to other members of said Board; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

ROBERTS, Chairman.

Adjournment

Senator Redditt moved that the Senate adjourn until 10:00 o'clock a. m. Monday, June 19, 1939.

Yeas and nays were demanded, and the motion was lost by the following vote:

Yeas—14

Brownlee	Pace
Burns	Redditt
Cotten	Roberts
Hardin	Shivers
Lemens	Van Zandt
Moffett	Weinert
Moore	Winfield

Nays—16

Aikin	Metcalf
Beck	Nelson
Collie	Small
Graves	Spears
Head	Stone
Isbell	of Galveston
Kelley	Stone
Lanning	of Washington
Martin	Sulak

Absent

Hill

Senator Pace moved that the Senate adjourn until 9:50 o'clock a. m. Monday, June 19, 1939.

Yeas and nays were demanded, and the motion prevailed by the following vote:

Yeas—16

Brownlee	Hardin
Burns	Lanning
Cotten	Lemens

SENATE JOURNAL**2053****Moffett
Moore
Pace
Redditt
Roberts****Shivers
Sulak
Van Zandt
Weinert
Winfield****Nays—15****Aikin
Beck
Collie****Graves
Head
Hill****Isbell
Kelley
Martin
Metcalf
Nelson
Small****Spears
Stone
of Galveston
Stone
of Washington**

The Senate, accordingly, at 12:25
o'clock p. m., adjourned until 9:50
o'clock a. m. Monday, June 19, 1939.

Resolutions
In Memory of
Hon. Nelson Phillips

On motion of Senator Moore and by unanimous consent, the following resolutions in memory of Hon. Nelson Phillips were ordered printed in the Journal.

Resolution of Houston Bar Association

On the morning of Friday, March 31, A. D. 1939, the sad information reached the membership of this Bar that Judge Nelson Phillips had closed his eyes in eternal sleep early that morning, at his home at Dallas, Texas. It is, therefore, with sorrowful hearts that we have met here today to endeavor to do for him what he had so oft done for others - pay a just tribute of love and respect to his memory.

We cannot hope to fulfill our hearts' desire in this regard at this hour, nor to present here with the eloquence of his mighty pen, nor the magnificent impressiveness of his spoken word, the memory of his great life and character. Ours is the privilege, therefore, to now record for his loved ones and friends, the members of this Bar, and those who shall come after us, some of the inspiring events of his honorable, useful and busy life, and particularly his outstanding achievements in his chosen profession, not alone as a member of the Bar, but as District Judge and as Associate and Chief Justice of the Supreme Court of Texas.

BIOGRAPHY

He was born at Jefferson, Texas, May 3, 1873, the son of C. E. and Jennie Arrington Phillips, and was married at Milford, Texas, on the 21st day of October, A. D. 1896, to Miss Susie McFadden, his devoted, gracious and faithful wife, who, with one child, Nelson Phillips, Jr., a prominent and talented young lawyer of Dallas, Texas, two brothers, Charles A. Phillips, of Paducah, Texas, and Edwin Phillips, of Dallas, Texas, and two sisters, Mrs. E. A. Jahn, of New York, and Mrs. B. P. Thacker, of Oklahoma City, are the immediate members of his surviving family.

In 1881 Judge Phillips removed with his father's family from Jefferson, Texas, to Hillsboro, Hill County, Texas, where he entered the public schools at the early age of eight years.

Although his father was a successful banker, Judge Phillips early manifested his intent and desire to become a lawyer. He attended Bingham's Military Academy at Melbane, North Carolina, and studied law after his return to Hillsboro, Texas, while assisting in his father's bank. The late Hon. Tom S. Smith, who afterwards became a noted Attorney General of Texas, and whose further promotion was brought to an untimely end by his early death, was practicing law at Hillsboro during Judge Phillips' young manhood. Observing his promise as a student of the law, and his unusual talent in this regard, Mr. Smith offered the then young Phillips an opportunity to read law in his office, and later he was invited and accepted an association with Mr. Smith in the practice of the law at Hillsboro, Texas, after he had successfully passed his bar examination in the summer of 1895.

JUDICIAL RECORD

In 1904 his reputation as a young lawyer was such that he was selected as Judge of the 18th Judicial District of Texas, in which his home town, Hillsboro, was located. Upon the conclusion of his service of one term as District Judge, he moved to Dallas and engaged in the practice of his chosen profession, and there formed a law partnership with the late Hon. Yancey Lewis, who was himself a well known lawyer of distinction and ability. By 1912 Judge Phillips had made such an enviable reputation as a lawyer at the Dallas Bar that, upon the resignation of Associate Justice W. F. Ramsey of the State Supreme Court, he was tendered by Governor O. B. Colquitt and accepted an appointment to succeed Judge Ramsey. Later, upon the death in 1915 of the noted Chief Justice Thomas J. Brown, he was selected by Governor Ferguson to succeed Judge Brown as Chief Justice of the Supreme Court of Texas. In 1921 Judge Nelson Phillips resigned to resume his law practice at his home city of Dallas, Texas, and was so engaged with his son, Nelson Phillips, Jr., under the firm name of Phillips & Phillips, at the time of his death.

Judge Phillips reached his legal conclusions as the result of calm, deliberative thought and action, and once an issue had been determined, he was not easily shaken. His deep and lasting concern at all times was the proper administration of justice under the law. He believed with Disraeli that:

"Justice is truth in action."

His official creed, as we knew him, is epitomized in the impressive language of Mr. Lincoln:

"Let us have faith that right makes might; and in that faith let us to the end, dare to do our duty as we understand it."

The jurisprudence of Texas is adorned with the memory and fame of many lawyers and judges who have won distinction and reached the heights of eminent renown. When Nelson Phillips entered into the Great Beyond and his soul took its winged flight to its place in the "mansions of the immortals," one of the greatest judges of his time passed on to

"the tongueless silence of the dreamless dust."

Indeed, it is not an exaggeration to say that among the many eminent judges whose labors have illumined the Records of our Supreme Court, the name and fame of Nelson Phillips as one of the ablest justices of the Supreme Court of our State will endure throughout the years. His opinions and decisions will live to guide in the

administration of justice in the years to come, long after this day shall have been forgotten and all of these events shall have passed down the dark afternoon of history.

A gifted poet has asked:

"What is our life but a succession of preludes to that unknown song whose first solemn note is sounded by Death?"

May we not confidently find the answer, with truthfulness and sincerity, to this potent inquiry in the record of a great judge who has bequeathed to the living and those to follow, enduring milestones of justice and of law to guide their footsteps in the future? When we contemplate how the judge, in the somber quietude of his chambers, must determine from the cold and inanimate pages of the record, the law, the truth and the right of the cause presented, it is well that he find a just inspiration in the knowledge that his labors will not be in vain,—ever mindful, as science teaches, that "no great thought, no pure and lofty emotion, is ever lost." They act upon the hearts and consciences of men,—

"even as the sea breaks into billows and rolls on the beach, long after the storm that stirred it is stilled."

Consistent with these sentiments, Chief Justice Nelson Phillips, oftentimes toiling on in the weary hours of the night, found hope, inspiration and courage in the thought that his works would live after him. This is the impelling force which helps a great judge to carry on in his nobility of purpose when, under the cruel of unjust criticism at the hands of the disappointed, there come to him those moments of loneliness and discouragement.

It is most comforting in this hour to his loved ones and his friends that knew him best to know that, though his earthly labors are over, his name and fame are secure, and that Time's chilling blast cannot dampen nor detract from his achievements as embodied for all time in the Reports of the Supreme Court of Texas.

"No more for him life's stormy conflicts,
Nor victory, nor defeat—no more time's dark events,
Charging like ceaseless clouds across the sky."

STATESMANSHIP

No resolution, it seems to your Committee, regarding the life and character of Judge Nelson Phillips, would be complete without some reference to his unflinching affection for and devotion to his country. He was at all times essentially patriotic. Early in life he aligned himself with the Democratic party, and adhered with unswerving fidelity to its tenets as he understood them throughout his entire career. Time and space do not here permit an extensive portrayal in detail of his views, but he was inherently in public affairs, as in personality, a man of rugged character and firm conviction and determination. Perhaps in the brief opportunity here afforded, his wishes regarding his political faith and some of its basic doctrines, to which he steadfastly adhered through life, could be best expressed by recalling at this time the following Declaration of Principles from the first inaugural address of Mr. Jefferson:

"Equal and exact justice to all men, of whatever state or persuasion, religious or political; peace, commerce, and honest friendship with all nations,—entangling alliances with none; the support of the State governments in all their rights, as the most competent administrations for our domestic concerns, and the surest bulwarks against anti-republican tendencies; the preservation of the general government in its whole constitutional vigour, as the sheet anchor of our peace at home and safety abroad; . . . freedom of religion; freedom of the press; freedom of person under the protection of the habeas corpus; and trial by juries impartially selected,—these principles form the bright constellation which has gone before us, and guided our steps through an age of revolution and reformation."

CHRISTIAN FAITH

In concluding these resolutions, your Committee would not be true to its own desire if it failed to say something regarding Judge Phillips' belief in his Creator, his faith in God and the Christian religion. Since his retirement from the Supreme Court and his return to his home at Dallas, he had long been a close personal friend and associate of Bishop Joseph P. Lynch of the Sacred Heart Cathedral (Catholic) at Dallas, and when the end of his earthly career was near at hand, he looked with confidence to the future life, and passed into eternity secure in his faith in the Christian resurrection and life everlasting. Let it be here recorded that this eminent jurist found faith and hope and confidence in his firm belief in a life beyond the grave. For him in these last moments there were no evil forebodings, no disturbing doubts, but with peaceful resignation he passed on into the "realm unknown," strengthened by an abiding faith that is best expressed in the beautiful language of Ella Wheeler Wilcox:

"I think of death as some delightful journey
That I shall take when all my tasks are done."

THEREFORE, BE IT RESOLVED, That a copy of this report and of these resolutions expressing the sentiments of the Houston Bar Association be sent to his beloved wife, Mrs. Phillips, to his son, Nelson Phillips, Jr., and to his named brothers and sisters, to each of whom this Association now here extends its deepest sympathy; that as a mark of respect to Chief Justice Nelson Phillips, these resolutions be appropriately entered in the proceedings of this Association, and that due publication thereof be given to the press; that appropriate committees be appointed to present this report and these resolutions to the District Court of Harris County, to the Federal District Court at Houston, to the United States Circuit Court of Appeals at New Orleans, Louisiana, and to the Supreme Court of Texas at Austin.

Respectfully submitted,

T. M. KENNERLY,
EWING WERLEIN,
DAFFAN GILMER,
CALVIN B. GARWOOD,

MCDONALD MEACHUM, *Chairman*;
JAS. A. BAKER,
E. J. FOUNTAIN,

Committee.

Memorial Adopted by the Bar Association of Dallas

As time marches on in its inexorable cycles, the God of our Fathers takes unto his bosom many of our friends and associates. But to those composing the Dallas Bar, who had the privilege of close acquaintance, deep friendship and profound respect for the man, the statesman and the judge, no greater sorrow can befall us than the loss of the Honorable Nelson Phillips.

We are moved, not by a pride of ownership because he was a member of this bar, but rather by a pride of fellowship which all members of our great profession feel for one whose life and deeds have exemplified the higher, the finer and the truer things of life, and illustrated as if it were by a living picture, the ideals which should be a guiding star for the faith, the teachings and the ambition of our profession, throughout our own time, and on down through the days of our children and our children's children.

He was a native of the state whose emblem—a single star—he so forcefully strove to brighten. Born on the third day of May, 1873, in Jefferson, Texas, of parents who had suffered in the war between the states, living through the bitterness of the tragic era which followed, yet rising above the hardships, and the disappointments of his day, he turned to the study of law, and since his admission to the practice, throughout his long and splendid service and career, he has done as much as any man of his time to uphold it and to defend it—but above all, to honor it.

True to his traditions and convictions, he never sought public office, but public service did seek him, first, as District Judge, and later as Associate Justice and Chief Justice of the Supreme Court of his State, and he graced both positions with a temperament unsurpassed for his sense of justice, his impartiality and his wisdom.

And yet, despite his study and his cloistered positions, he never lost the common touch, his sense of humor, nor his loyalty to his friends and associates. His anecdotes of the "Hill County Bar" were parables of common sense, despite their humorous side. His friendships were legion, and included many from the highest to the lowest.

And if the fates which guide our steps with such nice balance had called him to the service of a statesman, they would have chosen wisely also. His wide reading, constant study and profound thought had tutored his mind upon public questions, and his fundamentally unselfish point of view had so ably qualified him for that service.

In short, he was a patriot, his whole heart and soul devoted to the service of his state and his fellow man. Texas can be justly proud of his contribution—HIMSELF.

Wherefore, your Committee moves you that this Association honor itself and the memory of Judge Phillips by appointing a Committee to present this simple token of its esteem, affection and pride to his family, and to the Supreme Court of Texas, and move that Honorable Court to spread it upon their minutes as a lasting memorial to one who served us, and all of us, so ably in the span of life allotted him to serve.

Respectfully submitted,

JOHN C. ROBERTSON, *Chairman*;

ROBERT B. ALLEN,

JOS. W. BAILEY, JR.,

F. W. BARTLETT,

JOHN H. BICKETT, JR.,

JOE BURFORD,

CARL CALLAWAY,

HENRY C. COKE, JR.

HARRY P. LAWTHER,

JOHN W. POPE, SR.,

C. M. SMITHDEAL,

WILLIAM THOMPSON.

Resolution Adopted by the San Antonio Bar Association

BE IT RESOLVED by the San Antonio Bar Association that it learned with profound sorrow of the death of the Honorable Nelson Phillips, former Chief Justice of the Supreme Court of Texas, and desires to express its appreciation of his life and character.

Judge Phillips was a man of rare personality, who will always be fondly remembered by those who knew him.

His judicial career is indeed outstanding and his opinions take high rank among the finest of our judiciary. A man with a clear, logical mind, with a broad, statesmanlike grasp of public and private questions, with high ideals in both private and public life, it was natural that he should become one of our great judges. Possessing to a high degree the power of clear statement and lucid diction, he imparted to his opinions a pleasing and interesting clearness, not always found in opinions. He was devoted to the form of our Government and steeped in its history, and his patriotic fervor was revealed throughout his life. A pleasing and eloquent public speaker, he was always in great demand by the Bar Association for addresses and he responded to that demand as much as his time would permit. He rendered a great service to the Bar and the Bar Associations in the different parts of the State, and above all to the people of Texas.

He was a remarkable man and we shall miss him a great deal in our judicial and public life.

This Association deplores his passing and desires to go on record as expressing its appreciation of his great career and his judicial service.

BE IT FURTHER RESOLVED, That a copy of these resolutions be presented to the Supreme Court of the State for enrollment on its minutes and that copy be furnished to the family of Judge Phillips.

Respectfully submitted,

WM. AUBREY, *Chairman*;

R. L. BALL,

A. N. MOURSUND,

B. A. GREATHOUSE,

LUTHER BICKETT,

E. D. HENRY,

S. J. BROOKS,

Committee.

In Memory of Hon. Will M. Martin

Senator Lemens offered the following resolution:

(Senate Resolution No. 97)

WHEREAS, On Wednesday, June 14, 1939, the Honorable Will M. Martin, of Hillsboro, Texas, was called to his eternal reward; and

WHEREAS, This distinguished gentleman was a member of the Senate of Texas during the Forty-first, Forty-second, Forty-third and Forty-fourth Legislatures; and

WHEREAS, Senator Martin was honored by having served as President Pro Tempore during a part of his long and distinguished service in the Senate of Texas; and

WHEREAS, In his passing, his District and the State as a whole have lost a most highly esteemed and useful citizen whose ability, energy, and initiative made him an outstanding leader in his chosen profession of law, and in his capacity of serving as a citizen, and

WHEREAS, He always contributed generously of his time, talent and money to the humanitarian interests and welfare of his fellow citizens and to the best interest of good government in his State and Nation, so that his loss will be greatly felt by our State and its citizens; and

WHEREAS, It is the desire of the Senate of Texas to recognize and pay tribute to the services and useful life of Will M. Martin, and to express sympathy to his bereaved family; now therefore, be it

RESOLVED by the Senate of Texas, That the loss of this esteemed citizen is a loss to the whole State, and that a copy of this Resolution be sent to the members of his family as a tribute to the life of Senator Will M. Martin. Be it further

RESOLVED, That the President of the Senate appoint a committee of this body to attend the funeral of Senator Will M. Martin in Hillsboro, and express the sympathy of this body to the bereaved; and be it further

RESOLVED, That the Senate do now adjourn until 10:00 o'clock a. m., Monday, June 19, 1939, out of respect to the memory of Will M. Martin.

LEMENS,
PACE,
COLLIE,
MOFFETT.

Signed—Aikin, Beck, Brownlee, Burns, Collie, Cotten, Graves, Hardin, Head, Hill, Isbell, Kelley, Lanning, Lemens, Martin, Metcalfe, Moffett, Moore, Nelson, Pace, Redditt, Roberts, Shivers, Small, Spears, Stone of Galveston, Stone of Washington, Sulak, Van Zandt, Weinert, Winfield.

The resolution was read.

On motion of Senator Cotten, the names of all Senators were added to the resolution as signers thereof.

The resolution then was adopted unanimously.